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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,230	03/29/2001	Satoru Tange	SHC0121	7158

832 7590 11/22/2002
BAKER & DANIELS
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 11/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/821230 Applicant Tung et al.
 Examiner John Guarriello Group Art Unit 1791

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-6 is/are pending in the application.
- ☐ Claim(s) 3-6 is/are withdrawn from consideration.
- Of the above claim(s) _____ is/are allowed.
- ☐ Claim(s) 1, 2 is/are rejected.
- ☒ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-4409, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-682
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-682
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Election/Restriction

15. The Examiner acknowledges the affirmation of Group I, claims 1-2 of the Restriction requirement. Group II, claims 3-6 are withdrawn as directed to the non-elected invention. Since the election was made without any argument for traverse, it is the Examiner's position that the election will be treated as without traverse, and the Restriction is made final for reasons of record.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 94/14607 in view of EP 1066 957.

WO'607 describes a multi-layer surface panel which corresponds to the claimed composite sheet, (see abstract). WO'607 describes at least one elastic

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layer of a uniform film or foil which corresponds to the claimed elastically stretchable layer with upper and lower surfaces, (see abstract). WO'607 describes at least one inelastic fiber or filament layer joined at spaced points which corresponds to the claimed invention which are joined or bonded together intermittently, (see abstract). Regarding the orthogonal bonding direction, EP'957 describes the upper layer and lower layer of a composite sheet may be bonded orthogonally, (page 2, lines 54-58; page 3, lines 1-3, lines 40-41), even though non-preferred. See *In re Hans Theodor Boe* 53 CCPA 1079, 355 F.2D 961; 148 USPQ 507, obviousness may exist although teachings relied upon may be disclosed in art as non-preferred or unsatisfactory for the intended purpose. All the disclosures in a reference must be evaluated for what they fairly teach one of ordinary skill in the art. WO'607 differs from the claimed invention because it is silent about the tensile strength ratio of the elastic layer to the inelastic layer.

It would have been obvious to one of ordinary skill in this art to optimize the ratio of the tensile strengths in the first direction to the second

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direction motivated with the expectation that this would improve softness since tensile strength is the ability of a fiber, yarn or fabric to resist breaking under strain, it has been held that discovering an optimum value involves only routine skill in this art, In re Boesch ,617 F.2d 272, 205 USPQ 215 (CCPA 1980).


18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See Goda 6,378,134 the whole document.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


John J. Guarriello: gj

Patent Examiner

November 1, 2002

November 15, 2002


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700